

Application for
Certificate of Appealability

In this present application for a certificate of appealability, Petitioner demonstrates and/or shows the denial of a constitutional right as relative to this case.

Under 28 U.S.C.A. §2253 (c)(2) as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), a certificate of appealability may be issued only if the applicant has made a substantial showing of the denial of a constitutional right. Pursuant to this standard, a petition must show, "that reasonable jurists would find the District Court's assessment of the constitutional claims debatable or wrong".

Simms v. Carroll, 2006 WL 1523053, 2D. Del.(2006), citing 28 U.S.C.A. §2253 (c)(2); Slack v. McDaniel, 529 U.S. 473, 484 S.Ct. 1595, 196 L.Ed. 2d 542 (2000)

Moreover, the substantial showing language is nearly identical to that set forth by the Supreme Court of the United States in Barefoot v. Estelle, 103 S.Ct. 3383 (1983), which required a substantial showing of the denial of a federal right. ID. (emphasis added), "An issue is considered to meet the "substance" requirement if it is such that is controversial in that it is of legally debatable significance which justifies additional examination."

Barefoot v. Estelle 103 S.Ct. 3383 (1983)

Further, each claim as to which a petitioner wishes to institute on appeal, must be scrutinized in accordance with that standard and a court must specify which issues may be entertained on appeal. Issuance of a C.O.A. is jurisdictional in that, as this court has said, it serves to define the court's subject-matter jurisdiction in a given case. See **U.S.C. §2253 (c)(3)**, where, "The Certificate of Appealability... shall indicate which specific issue or issues satisfy the showing required...", and Morris v. Horn, 187 F.3d 333, 339 (3rd Cir. 1999).

Although there are a number of circumstances under this standard for the granting of a Certificate of Appealability, Petitioner has comprehensively and properly pled in this

application the circumstances known to him. Therefore, since the petitioner has met the requirements as set forth in **28 U.S.C §2253 (c)(2)**, a Certificate of Appealability should be issued.

See Constitutional Violations Appendix (A)